

Serial No. 10/085,421

**REMARKS:**

Claims 1-22 are presently pending in the application. Claims 1 and 12 are in independent form and are respectively apparatus and method claims. Claims 5-7 and 19-22 have been indicated as allowable.

The Figure has been amended to include reference numeral 37, and other errors were corrected in the Figure. Revised formal drawings will be submitted shortly. Claim 1 has been amended to overcome the objection raised by the Examiner.

Claims 12, 17, and 18 were rejected under §102(b) over Akiyama. The rejection is improper because step c) requires a pressure mass flow controller. This is contrasted with a temperature mass flow controller, which is more commonly used, the significance of which is discussed in paragraphs 12 and 13 of Applicant's disclosure on pages 5 and 6. Since Akiyama does not disclose all of the elements of claim 12, it and all of its depending claims are allowable.

Claims 1-3 and 9 were rejected under §103 over Hanashiro in view of Akiyama. Claim 1 requires a pressure mass flow controller, which is neither shown nor suggested in the references. Accordingly, claims 1-3 and 9 are allowable for this reason alone.

In addition, Hanashiro does not disclose a stainless steel canister. The Examiner argues that the sampling conduit 116 is a canister, but this is clearly not the case. While the Examiner is permitted to read the claim language broadly, the Examiner is not permitted to use a meaning repugnant to that understood by one of ordinary skill in the art. A canister in the art is used for a primary storage in the art. This meaning is evident from Akiyama. A conduit is used as a conveyance only and not for storage. In Hanashiro, only the bags 104 could be considered a "canister", otherwise, why would one have the bags 104 at all? Claims 1-3 and 9 are allowable for this additional reason.

Finally, Hanashiro and Akiyama cannot be combined to reject claims 1-3 and 9. The Examiner argues that heating a mass flow meter is obvious to eliminate unwanted errors. Heating a temperature mass flow controller, which Hanashiro and Akiyama presumably are, would result in further inaccuracies for the reasons set forth in paragraphs 12 and 13 of Applicant's disclosure on pages 5 and 6. Accordingly, claims 1-3 and 9 are also allowable for this reason.

Claims 4 and 8 were rejected under §103 over Hanashiro in view of Akiyama and a portion of the CFR section. Claims 15 and 16 were rejected under §103 over Akiyama in view of the CFR.

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Applicant believes that the Examiner has improperly cited the CFR section and requests a copy of only the relevant section so that it is clear as to what portion the Examiner is referring. Specifically, Applicant is unfamiliar with a section (1)(C)(86)(N) of 40 CFR.

Claims 10 and 11 were rejected under §103 over Hanashiro in view of Akiyama and Lewis. Claims 13 and 14 were rejected under §103 over Akiyama and Lewis. The goal of Lewis is only calibration of an emissions system. With respect to claims 10 and 11, one of ordinary skill in the art would look to modify Hanashiro to include the third pump taught by Lewis. The Examiner states the motivation would be to simplify the valving, but this is not supported by any of the teachings of the references. The system of Hanashiro appears to function satisfactorily without an additional pump. Applicant requests the Examiner to point out a teaching in the references to support the motivation or suggestion argued.

With respect to claims 13 and 14, Lewis teaches of an adjustment during calibration prior to operation only. This would not improve the accuracy of the system taught in Akiyama as the adjustment needs to occur continuously during the operation of the mass flow controller, since the mass flow controller is integrated over time to determine volume. Accordingly, combining Akiyama and Lewis would provide no benefit.

For the reasons set forth above, Applicant submits that the pending claims in the application are allowable. Applicant respectfully solicits allowance of these claims. If any fees or extensions of time are required, please charge to Deposit Account No. 50-1482.

Respectfully submitted,

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Version with markings to show changes made**IN THE CLAIMS:**

1. (Amended) An exhaust gas measurement system comprising:
  - a probe defining a sample exhaust gas passageway for collecting exhaust gas;
  - a stainless steel canister fluidly connected to said probe for storing the exhaust gas;
  - a pump fluidly interconnected between said probe and said canister for transferring the exhaust gas from said probe to said canister;
  - a pressure mass flow controller fluidly interconnected between said probe and said canister producing a exhaust gas flow measurement corresponding to the flow of the exhaust gas from said probe to said canister;
  - a temperature sensor for sensing a temperature of the exhaust gas proximate to said pressure mass flow controller, said temperature sensor correcting said exhaust gas flow measurement based upon said temperature;
  - a pressure sensor for sensing a pressure of the exhaust gas proximate to said pressure mass flow controller, said [temperature] pressure sensor correcting said exhaust gas flow measurement based upon said pressure; and
  - a heating device heating said stainless steel canister and said pressure mass flow controller.

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